

HOUSE BILL REPORT

HB 2284

As Reported by House Committee On:

Commerce & Labor

Appropriations

Title: An act relating to the training of and collective bargaining over the training of care providers.

Brief Description: Addressing the training of and collective bargaining over the training of care providers.

Sponsors: Representatives Green, Ericksen, Sells, Strow, Seaquist, Hinkle, Wallace, Priest, Hasegawa, Fromhold, P. Sullivan, Conway, Miloscia, Linville, Kenney, O'Brien, Simpson and Hunt.

Brief History:

Committee Activity:

Commerce & Labor: 2/20/07, 2/27/07 [DPS];

Appropriations: 3/3/07, 3/5/07 [DP2S(w/o sub CL)].

Brief Summary of Second Substitute Bill

- Directs the Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management to evaluate current long-term care provider and staff training requirements and make recommendations for any changes to the Governor and appropriate legislative committees by December 1, 2007.
- Includes contributions for the cost of training and other such programs and services necessary to establish and promote career ladders and a stable and skilled long-term care workforce in the scope of collective bargaining for individual providers and in the list of factors to be considered by an interest arbitration panel.

HOUSE COMMITTEE ON COMMERCE & LABOR

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member and Crouse.

Staff: Jill Reinmuth (786-7134).

Background:

Individual providers and agency home care workers provide long-term care services to elderly and disabled clients who are eligible for publicly-funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. These workers provide the DSHS' clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores.

Individual providers and agency home care workers must meet certain training requirements set forth in statute and in rules adopted by the DSHS. These training requirements include the following:

- an orientation which provides basic introductory information appropriate to the in-home setting and the population served;
- basic training as to the core knowledge and skills needed to provide personal care services effectively and safely; and
- continuing education designed to increase and keep current a person's knowledge and skills.

Wages, benefits, and working conditions for individual providers are determined solely through collective bargaining. The Governor must submit, as part of the proposed biennial or supplemental operating budget submitted to the Legislature, a request for funds necessary to implement the compensation and fringe benefits provisions of a collective bargaining agreement or binding interest arbitration award. The Legislature must approve or reject the submission of the request for funds as a whole.

Vendor payment rates for agency home care workers are established in the biennial operating budget. A formula established by the DSHS converts the cost of compensation increases negotiated and funded for individual providers into an hourly amount that is added to vendor rates for agency home care providers.

The 2005 Legislature established an eight-member Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management (Task Force) to make recommendations related to: the composition of a long term care system adequate to meet needs; efficient models that will effectively sustain the funding of long-term care; laws and regulations that should be revised and/or eliminated to reduce or contain costs; the feasibility of private options that will enable individuals to pay for long-term care; options that support

the needs of rural communities; and disability prevention interventions and chronic care management strategies that can reduce the need for long-term care. The Task Force issued recommendations January 1, 2007, and will issue a final report no later than June 30, 2007.

Summary of Substitute Bill:

The Department of Social and Health Services (DSHS) must require certain providers of long-term care to meet specified minimum training requirements. These persons include all persons who are long-term care workers for the elderly or persons with disabilities, but do not apply to nursing homes or persons already employed as long-term care workers prior to January 1, 2009.

The DSHS must require entry-level providers of long-term care to obtain 85 hours of entry-level training. The entry-level training must include two hours of orientation, three hours of safety training, and 80 hours of long-term care core competencies training. The DSHS must also offer 65 hours of advanced and specialty training. The DSHS may not require advanced and specialty training. The DSHS may develop a review process waiving some requirements for a person who is a registered nurse or certified nursing assistant, has a health care degree, or has other significant formal experience and training. These requirements apply beginning in 2009.

The DSHS must require all providers of long-term care services to obtain twelve hours of continuing education in advanced and specialty training topics each year. This requirement also applies beginning in 2009.

The DSHS must require that all providers of long-term care services be offered on-the-job training or peer mentorship of at least one hour per week for the first 120 days of work from a long-term care provider who has completed twelve hours of mentor training. This requirement applies beginning in 2010.

The DSHS must adopt rules establishing a certified home care aide designation and testing process. After completing 85 hours of entry-level training, workers are eligible to take the test to be certified as a home care aide. The DSHS must deny payment to providers of long-term care who do not complete the training requirements and become certified within six months or 600 hours of work, whichever is later.

Only training curriculum approved by the DSHS may be used. The DSHS must approve any training curriculum that was developed with input from consumer and worker representatives, allows for comprehensive instruction by qualified instructors, and encourages direct participation by consumers and workers.

For all providers of long-term care represented by an exclusive bargaining representative, training must be provided by a joint labor-management partnership or trust selected by the certified exclusive bargaining representative representing at least 20,000 employees. Employer contributions to the entity are a mandatory subject of collective bargaining, and

must be fixed at a level sufficient to meet the cost of the training requirements and to contribute towards the cost of other services such as adult education, caregiver support, and career development services.

At the request of the exclusive bargaining representative, the Governor must engage in collective bargaining with the exclusive bargaining representative over employer contributions for the cost of meeting the training requirements and providing programs and services necessary to establish and promote the education, training, career development, career ladders, certification, and licensing of a stable, professionally trained long-term care workforce. The Governor must submit a request for funds necessary to implement the training contribution provisions of a collective bargaining agreement as part of the proposed operating budget submitted to the Legislature.

Other provisions address the factors considered by interest arbitration panels, the formula used to establish parity for individual providers and adult family home care providers, and certification as a nursing assistant. Duplicative, inconsistent, and obsolete provisions are stricken.

These provisions are to be known as the "Establishing Quality in Long-Term Care Services to the Elderly and Persons With Disabilities Act."

Substitute Bill Compared to Original Bill:

Language is added clarifying that all persons who are long-term care workers for the elderly or persons with disabilities must meet minimum training requirements. An exemption to the minimum training requirements is added for persons employed as long-term care workers for the elderly or persons with disabilities prior to January 1, 2009.

The number of hours of entry-level training is reduced from 150 hours to 85 hours. The waiver of the training requirements is for persons with significant formal experience. The Department of Social and Health Services is prohibited from requiring providers of long-term care services to obtain advanced and specialty training.

Appropriation: None.

Fiscal Note: Requested on February 19, 2007.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) We strongly support this bill.

Current training for care givers is not sufficient. The curriculum has not kept pace with the responsibilities. Jobs that used to be limited are now multi-faceted. (For example, I did not

receive any information about how to care for patients with HIV.) Our current approach doesn't prepare the state for the care gap.

As more people choose to age in their homes, training the workforce to support that choice will be the key. Our elder population is growing at a rate of 136 percent while our workforce is growing at a rate of 30 percent.

This bill would require the same level of training for individual providers as is required of those working in nursing homes. It would result in better training and would also improve quality of care.

Individual providers need training on communicating with patients, dealing with behavioral issues, and assistance with daily living. The needs of people with developmental disabilities are unique and complicated.

Better training is the key for all long-term care workers. Right now, certified nursing assistants (CNAs) have more training than home care workers, and yet CNAs have more resources available to them than individual providers.

(With concerns) Training in the fundamentals of care giving is important. Washington's training program is one of the best in the nation, but government programs are imperfect. Training individual providers is a considerable undertaking. Training needs to be at the right time, in the right location, and in the right language. More thought needs to be given to making it a seamless process. Terminating services could put clients at risk.

It is unclear whether all licensed agencies are covered or whether only those receiving funds through the Department of Social and Health Services (DSHS) are covered. It is unclear who would bear the costs. It is unclear whether family members who are caregivers want training or mentoring. It is unclear whether there is a problem that needs solving.

There are some confusing components in this bill. It is unclear whether training is established by the DSHS or through collective bargaining. It is not clear who we are trying to establish requirements for. If we are trying to establish requirements for individual providers, that has been a topic of collective bargaining. The agreement is before the Legislature now for approval, and it includes funds for training.

(Opposed) This bill should exempt boarding homes. We already have standards. We spent five years negotiating those standards, and the DSHS conducts a review every 15 months. There is no evidence that those standards are broken. We have found that classroom training is not necessarily the best training. It establishes a foundation, but on-the-job training is better. There is oversight in the boarding home industry that does not exist in other long-term care settings.

This bill takes a one-size-fits all approach, and will have unintended consequences. It makes sweeping changes. It eliminates the flexibility to meet individual family needs. Choice is the key when parents are the providers.

This bill does not work for adult family home providers. If there is no new money, there will be no new training. Adult family home providers already do training, both initial training and advanced specialty training.

The penalty is too severe. Refusing to pay for Medicaid clients would remove income from what are already underfunded operations. And if care has already been provided, payment for that care should be made.

This bill impacts hospice care. For many people, hospice work is not a career choice. Instead, the hospice team gives them training, so that family members can provide end-of-life care for their loved ones. There should be an exemption for family members.

Persons Testifying: (In support) Representative Green, prime sponsor; Ingrid McDonald, Healthcare Institute; Charissa Raynor and Suzanne Wall, Service Employees International Union Local 775; Suzie Young, individual provider; Linda Lee; and Patti Weaver, Eagle Healthcare.

(With concerns) Jay Crosby, Professional Registry of Nursing; Leslie Emerick, Home Care Association; Blanche Jones, Gentiva; and Steve McLain, Office of Financial Management - Labor Relations Office; and Ann Kopsil, Washington State Hospice.

(Opposed) Vicki McNealley and Deb Johnson, Washington Health Care Association; Ron Ralph and Donna Patrick, Developmental Disabilities Council; and Terry Kohl and Dan Simeonin, Washington State Residential Care Council.

Persons Signed In To Testify But Not Testifying: Nick Beamer, Aging & Long-Term Care of Eastern Washington; Wardell Henderson, individual provider; Julie Peterson, Washington Association of Housing & Services for the Aging; and Jim Crabbe, Washington State Board for Community and Technical Colleges.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 26 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Haler, Assistant Ranking Minority Member; Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Linville, McDermott, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Minority Report: Do not pass. Signed by 8 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Hinkle, Kretz and McDonald.

Staff: Bernard Dean (786-7130).

Additional Background:

The 2005 Legislature established an eight-member Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management (Task Force) to make recommendations related to: the composition of a long-term care system adequate to meet needs; efficient models that will effectively sustain the funding of long-term care; laws and regulations that should be revised and/or eliminated to reduce or contain costs; the feasibility of private options that will enable individuals to pay for long-term care; options that support the needs of rural communities; and disability prevention interventions and chronic care management strategies that can reduce the need for long-term care. The Task Force issued recommendations January 1, 2007, and will issue a final report no later than June 30, 2007.

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Commerce & Labor:

The Appropriations Committee removes the requirement that the Department of Social and Health Services increase minimum training requirements and establish a home care aide certification process. The Joint Legislative and Executive Task Force on Long-Term Care Financing and Chronic Care Management is directed to evaluate current training requirements, and make recommendations for any changes to the Governor and legislative committees by December 1, 2007. The Appropriations Committee included contributions for the cost of training and other programs and services in the scope of collective bargaining for individual providers. Corresponding changes are made in the list of factors to be considered by an interest arbitration panel. The collective bargaining and interest arbitration sections take effect July 1, 2008.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed, except for Sections 2 and 3, relating to factors that are to be considered in the collective bargaining process for home care workers, which take effect July 1, 2008.

Staff Summary of Public Testimony:

(In support) There has been tremendous work on this bill with key stakeholders including the Department of Social and Health Services, the Home Care Quality Authority, the Governor's Office, the Long-Term Care Ombudsman Office, consumer advocates, folks with developmental disabilities, and employers. Local 775 supports continued work on this bill to more closely reflect this new stakeholder consensus. Over the past decade Washington has rebalanced its long-term care delivery system and many more seniors and people with disabilities have the choice to remain in their homes and receive care. The problem is that training for home care workers has not kept pace. We would like to see the bill moved forward.

As a home care worker I want and need better support and training opportunities. People living with developmental disabilities have unique and complicated needs. The current

requirement of 10 hours of continuing education is a great idea. Unfortunately, the offerings from the state are irrelevant to the actual work that I do. There is a problem with training and space availability. I need more and better training.

(Opposed) None.

Persons Testifying: Charissa Rayner and Linda Lee, SEIU 775.

Persons Signed In To Testify But Not Testifying: None.